

CITY OF WILLMAR

BOARD OF ZONING APPEALS MEETING

5:15 P.M. ON MONDAY, JUNE 15, 2020

VIRTUAL

GOTO MEETING

Chair:

Vice Chair:

Members: Andrew Engan, Christopher Frank, Dan Reigstad, SanDawna Gualman Ashley,
and Josh Monson

AGENDA

1. Call the meeting to order
2. Introductions
3. Reorganization
4. Menard Inc. Side Yard Setback Variance
5. Miscellany
6. Adjourn

BOARD OF ZONING APPEALS - JUNE 15, 2020

STAFF COMMENTS

1. MENARD INC SIDE YARD SETBACK VARIANCE - FILE NO. 20-01:

- The applicant is Menard, Inc. of Eau Claire, WI.
- The applicant requests to allow a side yard setback of 0' on property described as follows: Lot 1, Block 1 Menards Addition (3330 1st St S).
- The Zoning Ordinance section 4.A.5.e states that "No driveway or off-street parking area shall be located closer than... ten (10) feet in multi-family residential, commercial, or industrial districts."
- The property is zoned GB (General Business).
- The applicant is the property owner.
- This store was constructed in 2004.
- The variance is being requested along the north property line to allow for the addition of an automated entrance lane to the yard gate.
- This scope of work is being scheduled for stores company-wide.
- This adaptation assists the store in competing with online shopping trends.

Fire Marshal Comments: No problem from the fire department.

Willmar Municipal Utilities Comments: The water main is in the drive, but it is private. There should be no conflicts with water or electrical.

Police Chief Comments: No opposition from the WPD perspective on this.

Engineering Comments: I echo some of the concerns expressed by the County Drainage Authority. The ditch encroachment is concerning to me. If we need to access this ditch, it is already very tight and almost impossible from the Southern bank.

There is the possibility of installing a pipe (sized correctly) to manage the water in the ditch then possibly easing this concern. This cost would be Menard's responsibility

I am also concerned, by further encroaching on the ditch, about bank erosion. How is this going to be handled by Menards? The Southern bank will be extremely steep if approved as proposed. I think this proposal is problematic and I would suggest they explore other options. (Sean Christensen, City Engineer)

The ditch needs to be respected for its purpose and maintenance. A petitioned County ditches now require a 16 ½ foot (1 Rod) vegetative buffer strip outside the edge of the constructed ditch top. This is for filtering (water quality). Additionally, if the ditch were to be cleaned, there needs to be reasonable access. Because the ditch was established under Minnesota Statute 103E, there are no formal easements. Property owners must grant 'Reasonable' access as required by the statute, but no formal easements. The ditch was turned over from the County to the City, and the City is now the 'Ditch Authority'.

The bottom line is the ditch needs to be respected for the benefit it brings to those who depend on it. As a public entity it is our responsibility to look out for the wellbeing of the citizens. With that said the ditch needs to be able to maintain its flow and function. In my opinion, it falls on Menard's to protect the ditch and maintain its structure and hydraulic capacity. Without enclosing part of the ditch to achieve their purpose, it is doubtful the proposed automated entrance lane can be constructed. If part of the ditch is enclosed, construction and maintenance should fall on Menard's and future owners of the site, not the City or other public agency. (Bruce Cochran, Assistant City Engineer)

Kandiyohi County Drainage Authority Comments: In review of the proposed Plan, it brings great concern to the County Drainage Authority. The section of the drainage ditch along Menards is under the Authority of the City of Willmar. The section of the ditch upstream (to the west and outside of the city limits) is under the jurisdiction of the County Drainage Authority. Therefore, the County Drainage Authority would need to comment on any impacts to the drainage ditch. For both the City and the County, the legal right of way to a drainage system is the channel bottom, both side slopes, and 16.5 feet of ditch bank measured from the top of the slope and measuring outward. The Menards yard fence has already encroached on this ROW. Any further encroachment/alteration is very risky.

Since the ditch to the west of Menards is under our jurisdiction, we would need to give permission for any and all alterations, modifications, pipes, etc. Since their proposal would encroach on the original ditch right of way, I would not support the plan as is.

RECOMMENDATION: Review variance standards in Section 9.D.3.a.1-4 to examine practicable difficulties, reasonableness, uniqueness, and essential character.



April 27, 2020

RE: Menards Setback Variance Request

Dear Members of the Board of Adjustment,

Menard, Inc. is submitting a setback variance application for the Willmar Menards store. This application is being made as part of a company wide remodel project that adds an automated entrance lane to the yard gate at every store location. With the continued increase in online shopping Menards and other retailers have found ways to adapt to contend with these online shopping trends. Guests with an online order can scan their order barcode at this new lane and enter the yard to pick up their order at the dedicated order pickup location. The existing entrance and exit lanes will still be operated manually by a gate guard as they are today. With the recent changes COVID-19 has made in everyone's lives this online order pickup program has become even more essential and played an important role in keeping communities safe.

When the Menards store was constructed in 2004 Menards could have never predicted that online shopping would become so important in 2020 and we would need to make changes to the store to accommodate that. We also never would have thought to save another 15' north of the store just in case we needed to expand the gate. The result of those factors is the setback variance request we are making. Other retail businesses have their online pickup areas in the front parking lots but the size of materials sold at Menards makes it impractical to haul large orders through the store and load them into people's vehicles when the loading program in the Menards lumber yard area works successfully.

Menards has reduced the size of the expansion area and drive lane from the standard 20 feet at other locations to a smaller 15 feet at this location to fit on the property owned by Menards in Willmar. This does not change the variance request but changes have been made to the plans to make this project work at this store location.

Findings of Fact

- 1. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.**

If the variance was not granted Menards would not be able to implement the online order pickup system as we have done at all other stores across the country. In 2020 if physical stores are not able to compete with other physical retailers and online retail sales then they are at a significant disadvantage. There have been no shortage of closed retail businesses in recent years that were not able to complete, leaving empty boxes and the loss of jobs and sales tax revenues for communities.

There is no practical alternative to adding on to the existing gate and meeting the setback requirements in the ordinance. Relocating the gate to the south end of the yard would create a significant safety hazard to the guests walking in the garden center area and the large trucks that use the gate.



Additionally the cable and fiber optic lines that run to the gate and communicate to the store's computer system are already in place in the existing gate location. It would also be impractical to relocate the entire Menards store to a new location and leave this building vacant when the variance is a viable option.

2. The plight of the landowner is due to unique circumstances not created by the landowner.

Menards did choose the location of the store and gate setbacks in 2004 when the facility was first built however, it could never had been imagined back then that a large portion of the retail world would be online by the year 2020 and a program like this would be needed. The circumstances causing the expansion are related to online retail shopping trends beyond our control. Menards simply wants the opportunity to compete at the highest possible level and maintain the physical store locations that have served our communities so well.

3. The variance, if granted, will not alter the essential character of the locality.

The portion of the Menards property that the variance is being requested abuts a drainage ditch and faces the storage area of the tractor and truck facility north of the Menards store. This is not a use that would be impacted by a reduced setback and especially a setback that is 142 feet from their building. The addition to the gate will match the existing gate with green steel siding and a white steel roof. The fence on the exterior of the expansion will be made of 14 foot tall treated wood to match the existing fence. The truck and vehicle traffic using the gate will not change from the existing traffic, this will help traffic circulate better and separate trucks from cars.

4. The variance, if granted, will not be detrimental to nor endanger the public welfare.

After adding a new lane to almost every Menards store across the country in the last 2 years it has become clear there is no standard setback distance. Many cities have a zero foot side yard setback requirement while others have a 20 foot requirement. As long as the setback distance does not negatively impact the adjacent property there may not be a correct answer beyond what each city felt was appropriate in their ordinance when it was written.

Menards appreciates your consideration and support of this request and the importance of reinvesting in our store locations to ensure they are serving the community in the best possible way for many years to come. If you have any questions on the project please feel free to reach out to me. Thank you.

Sincerely,
Menard, Inc.

Tyler Edwards
Real Estate Representative
Menard, Inc. 5101 Menard Drive Eau Claire, WI 54703
O: 715.876.2143 C: 715.579.6699 tedwards@menard-inc.com



33-027-0060
JANSSEN LIVING TRUST/WALLACE V

MENARD INC 95-504-0010
Willmar Willmar Twp.

95-506-0010

95-926-0025

95-366-0010

95-085-0010

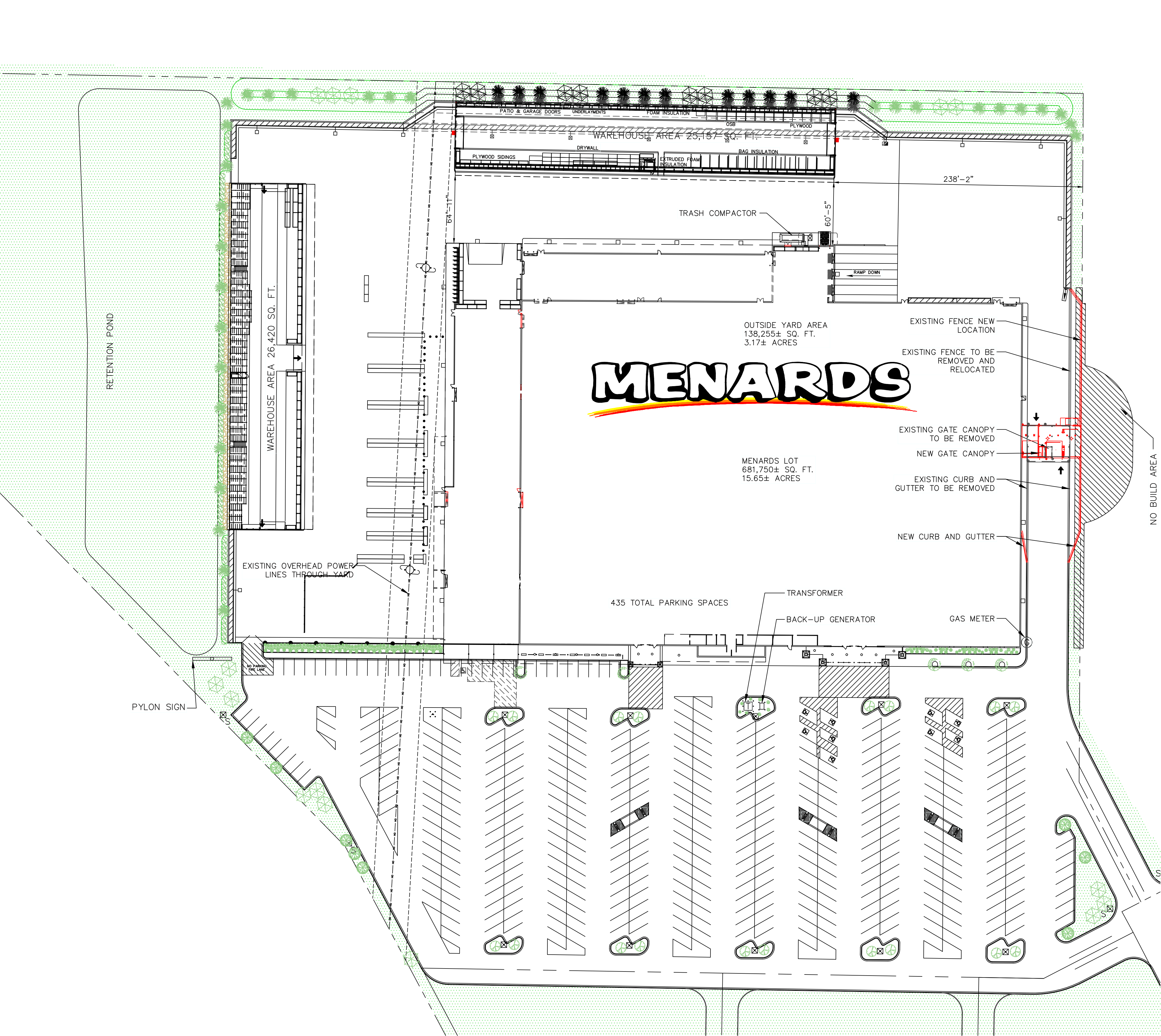
95-085-0020
JR & R II LLC

CITY OF WILLMAR
33-027-0063

33-027-0050

95-927-0070

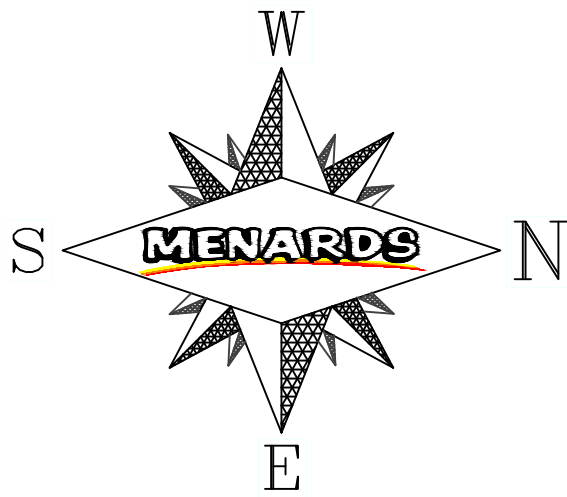
95-927-0050



ELECTRICAL LEGEND		
	14	(1) 400W 277V M.H. PARKING LOT LIGHTING ON 30'-0" TALL POLES
	10	(2) 400W 277V M.H. PARKING LOT LIGHTING ON 30'-0" TALL POLES
	17	EXISTING 400W 277V M.H. CUTOFF LUMINAIRE TO REMAIN
	2	NEW 400W 277V M.H. CUTOFF LUMINAIRE TO MATCH EXISTING
	7	EXISTING 400W 277V M.H. CUTOFF LUMINAIRE YARD LIGHTS TO REMAIN
	5	EXISTING 400W 277V M.H. CUTOFF LUMINAIRE YARD LIGHTS TO BE REMOVED
	1	EXISTING 400W 277V M.H. CUTOFF LUMINAIRE YARD LIGHT TO BE RELOCATED
	1	RELOCATED 400W 277V M.H. CUTOFF LUMINAIRE YARD LIGHT TO MATCH EXISTING
	21	175W 277V CANOPY LIGHTS MOUNTED ON FRONT BUILDING CANOPY
	8	277V M.H. DECORATIVE LAMP

LANDSCAPE LEGEND		
SYMBOL	SCIENTIFIC, COMMON NAME	QUANTITY
	GLEDTISIA TRIACANTHOS INERMIS 'SHADEMASTER'	18
	'SHADEMASTER' HONEY LOCUST	
	FRAXINUS PENNSYLVANICA, GREEN ASH	8
	EXISTING PICEA PUNGENS, COLORADO SPRUCE TO REMAIN	30
	PICEA PUNGENS, COLORADO SPRUCE REMOVED AND TRANSPLANTED	12
	EXISTING MALUS FLORIBUNDA, JAPANESE FLOWERING CRAB TO REMAIN	15
	MALUS FLORIBUNDA, JAPANESE FLOWERING CRAB REMOVED AND TRANSPLANTED	8
	ACER PLATANOIDES, COLUMNARE NORWAY MAPLE	5
	SYRINGA VULGARIS, COMMON LILAC	65
	BERBERIS THUNBERGII, JAPANESE BARBERRY	73
	SPIRAEA X BUMALDA, 'GOLDFLAME' SPIREA	72
	JUNIPERUS HORIZONTALIS 'BAR HARBOR', 'BAR HARBOR' JUNIPER	44

Tyler Edwards
Real Estate Representative
Menard, Inc.
5101 Menard Drive
Eau Claire, Wisconsin 54703



Willmar, Minnesota
Menards Site Plan
November 11, 2015
Scale: 1" = 50'-0"

PARKING
FIRE
LANE









May 20, 2020

Kdeter@RinkeNoonan.com

Loren Engelby
Kandiyohi County Drainage Inspector
1801 East Highway 12
Willmar, MN 56201

SENT VIA EMAIL: LOREN.ENGELBY@KCMN.US & U.S. MAIL

**Re: Kandiyohi County Ditch #23, City of Willmar – Menards
Our File No. 23143-0070**

Dear Loren:

Thank you for your email of May 19th. I have attached a copy of Minnesota Statutes 103E.812 concerning the transfer of all or part of a drainage system to the Water Management Authority, which includes the City. This was done in 2013 for part of County Ditch #23. I am a little unclear as to whether the part of Branch 2 upstream of the City of Willmar was transferred or if it is still part of the County Ditch #23 system under the jurisdiction of Kandiyohi County as the Drainage Authority. I have attached a copy of Minnesota Statutes 103E.075 concerning obstructing of a drainage system and Minnesota Statutes 103E.081 concerning obstructing or damaging a drainage system. I am not exactly sure what Menards plans to do with the parking lot, but certainly they cannot obstruct or damage the County Ditch #23 system. They may have some type of culvert system planned, but again, that would need the permission of the Drainage Authority because under 103E.075, Subd. 1, they cannot install culverts that are of insufficient hydraulic capacity. Even if there was a method to install culverts, there would be the issue of future maintenance of that area as it is much easier and less costly to maintain an open ditch than a culvert.

If that part of County Ditch #23 was transferred in 2013, then provisions of Minnesota Statutes 103E.812 apply. Under Subd. 7, the City, at the time of the transfer, guarantee that all rights to an outlet are preserved for property assessed for benefits on the transferred drainage system of at least hydraulic efficiency that existed at the date of transfer. Therefore, if there are landowners that are outletting into this section, the City has a duty to maintain the outlet and to not compromise any property right of any assessed landowners. That would include a duty to protect the area from any obstructions or damage.

Loren Engelby
May 20, 2020
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Whether the County or the City is the Drainage Authority for this section of County Ditch #23, they both have the same responsibilities, duties and rights to protect the system under Minnesota Statutes 103E. As I indicated, there may be some way that Menards can accomplish their goal that does not infringe or damage the drainage rights or the drainage system, but again, that would have to be approved by either the City or the County depending on who is the Drainage Authority. If you would like to discuss it further, please give me a call.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "Kurt A. Deter", is written over a horizontal line.

Kurt A. Deter
KAD/cmt

Enclosures